IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.62 of 1999
Date of decision:23.10.2006

The Commissioner of Income tax, Jalandhar

....Petitioner

versus

M/s. Jalandhar Sales Corporation, Nakodar Road, Jalandhar

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar arising out of its order dated 20.7.1998 in ITA No.705(ASR)/1992, in respect of assessment year 1990-91:-

> "Whether on the facts and circumstances of the case, the Tribunal was right in cancelling the penalty levied under section 271B of the Income Tax Act, 1961?"

In the year 1990-91, the assessee filed its return and audit report under section 44AB of the Income Tax Act, 1961 (for short, 'the Act') was filed on 21.12.1990, though, accounts had been audited on 24.11.1990. Following its earlier judgment in **ACIT v. M/s. Neel Kamal Rubber Industries, Jalandhar**, ITA Nos.400 and 401(ASR)/1992, decided on 17.11.1992, it was held that penalty under section 271B of the Act was not called for.

We have already upheld the view taken by the Tribunal vide our judgment dated 5.9.2006 in ITR No.220 of 1995, following judgment of this Court in **Income Tax Officer v. Kaysons India**, (2000) 246 ITR 489.

In view of the above, the question referred is answered against

the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

October 23, 2006
'gs'

(Rajesh Bindal)
Judge